

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 142

Introduced by Assembly Member Hayashi

January 22, 2009

An act to amend Section 104113 of the Health and Safety Code, relating to health studios.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Hayashi. Health studios: external defibrillator unit requirements.

Existing law requires every health studio, as defined, to acquire, maintain, and train personnel in the use of automatic external defibrillator units. Existing law requires, among other things, that these health studios have trained employees available to respond to an emergency that may involve the use of an automatic external defibrillator unit during normal operating hours.

~~This bill would specify that the term “normal operating hours” shall not be defined to mean less than 50 hours per week of the total number of hours per week that the health studio is available for use by members or the general public.~~

~~This bill would also impose additional requirements, as specified, on health studios that are unstaffed for at least 20% of the total number of hours per week that the studio is available for use by members or the general public.~~

This bill would require a health studio that is available for use by its members for 24 hours per day, but is not staffed during that entire period, to meet specified requirements, including, but not limited to, providing live video surveillance, as defined, of a health studio during

times when no trained employees are on the premises, and requiring members, during times when the health studio is not staffed with a trained employee, to use a provided device that, when activated, contacts emergency services.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 104113 of the Health and Safety Code
2 is amended to read:

3 104113. (a) (1) Commencing July 1, 2007, every health studio,
4 as defined in subdivision (g) shall acquire an automatic external
5 defibrillator. The requirement to acquire an automatic external
6 defibrillator pursuant to this subdivision shall terminate on July
7 1, 2012.

8 (2) Commencing July 1, 2007, and until July 1, 2012, every
9 health studio, as defined in subdivision (g), shall maintain, and
10 train personnel in the use of, any automatic external defibrillator
11 acquired pursuant to paragraph (1).

12 (3) On or after July 1, 2012, a health studio that elects to
13 continue the installation of an automatic external defibrillator that
14 was acquired pursuant to paragraph (1) shall maintain and train
15 personnel in the use of an automatic external defibrillator pursuant
16 to this section, and shall not be liable for civil damages resulting
17 from the use, attempted use, or nonuse of an automatic external
18 defibrillator as provided by this section.

19 (b) An employee of a health studio who renders emergency care
20 or treatment is not liable for civil damages resulting from the use,
21 attempted use, or nonuse of an automatic external defibrillator,
22 except as provided in subdivision (f).

23 (c) When an employee uses, does not use, or attempts to use,
24 an automatic external defibrillator consistent with the requirements
25 of this section to render emergency care or treatment, the members
26 of the board of directors of the facility shall not be liable for civil
27 damages resulting from any act or omission in rendering the
28 emergency care or treatment, including the use or nonuse of an
29 automatic external defibrillator, except as provided in subdivision
30 (f).

(d) Except as provided in subdivision (f), when an employee of a health studio renders emergency care or treatment using an automatic external defibrillator, the owners, managers, employees, or otherwise responsible authorities of the facility shall not be liable for civil damages resulting from any act or omission in the course of rendering that emergency care or treatment, provided that the facility fully complies with subdivision (e).

(e) Notwithstanding Section 1797.196, in order to ensure public safety, a health studio shall do all of the following:

(1) Comply with all regulations governing the placement of an automatic external defibrillator.

(2) Ensure all of the following:

(A) The automatic external defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, or the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(B) The automatic external defibrillator is checked for readiness after each use and at least once every 30 days if the automatic external defibrillator has not been used in the preceding 30 days. Records of these checks shall be maintained.

(C) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automatic external defibrillator activates the emergency medical services system as soon as possible, and reports any use of the automatic external defibrillator to the licensed physician and to the local EMS agency.

(D) For every automatic external defibrillator unit acquired, up to five units, no less than one employee per automatic external defibrillator unit shall complete a training course in cardiopulmonary resuscitation and automatic external defibrillator use that complies with the regulations adopted by the Emergency Medical Services Authority and the standards of the American Heart Association or the American Red Cross. After the first five automatic external defibrillator units are acquired, for each additional five automatic external defibrillator units acquired, a minimum of one employee shall be trained beginning with the first additional automatic external defibrillator unit acquired. ~~Acquirers~~

Except as provided in paragraph (3), an acquirer of automatic

1 external defibrillator units shall have trained employees who should
2 be available to respond to an emergency that may involve the use
3 of an automatic external defibrillator unit during normal operating
4 hours. ~~Acquirers~~ *An acquirer* of automatic external defibrillator
5 units may need to train additional employees to ~~assure~~ *ensure* that
6 a trained employee is available at all times. ~~Under no circumstances~~
7 ~~shall the term “normal operating hours” be defined to mean less~~
8 ~~than 50 hours per week of the total number of hours per week that~~
9 ~~the health studio is available for use by members or the general~~
10 ~~public. If a health studio is unstaffed for more than 20 percent of~~
11 ~~the total number of hours per week that the studio is available for~~
12 ~~use by members or the general public, the studio shall be required~~
13 ~~to do both of the following:~~

14 (i) ~~Provide those using the studio with a device that, when~~
15 ~~activated, contacts emergency services, and shall, as a condition~~
16 ~~of the use of the studio, require that the user keep the device with~~
17 ~~them at all times when using the studio.~~

18 (ii) ~~Require that all employees working on the premises~~
19 ~~complete a training course in cardiopulmonary resuscitation and~~
20 ~~automated external defibrillator use that complies with the~~
21 ~~regulations adopted by the Emergency Medical Services Authority~~
22 ~~and the standards of the American Heart Association or the~~
23 ~~American Red Cross. Each employee must receive training within~~
24 ~~30 days of commencing work.~~

25 (E) There is a written plan that exists that describes the
26 procedures to be followed in the event of an emergency that may
27 involve the use of an automatic external defibrillator, to ensure
28 compliance with the requirements of this section. The written plan
29 shall include, but not be limited to, immediate notification of 911
30 and trained office personnel at the start of automatic external
31 defibrillator procedures.

32 (3) *A health studio that is available for use by its members 24*
33 *hours per day, but that does not have a trained employee on the*
34 *health studio premises for the entire 24-hour period, shall do all*
35 *of the following:*

36 (A) *Require that all employees who work on the premises of the*
37 *health studio complete a training course, within 30 days of*
38 *commencing employment, in cardiopulmonary resuscitation and*
39 *automated external defibrillator use that complies with the*
40 *regulations adopted by the Emergency Medical Services Authority*

1 *and the standards of the American Heart Association or the*
2 *American Red Cross.*

3 *(B) Ensure that a trained employee is on the premises of the*
4 *health studio for no fewer than eight hours per day during each*
5 *day that the health studio is available for use by its members.*

6 *(C) Inform a member, at the time the member contracts for the*
7 *use of the health studio, that a trained employee will not be on the*
8 *premises at all times.*

9 *(D) During times when a trained employee is not on the premises*
10 *of the health studio, provide all members with a device that, when*
11 *activated, contacts emergency services. The health studio shall*
12 *require its members to keep the device on his or her person, as a*
13 *condition of using the health studio during these times.*

14 *(E) Provide live video surveillance during hours when a health*
15 *studio is available for use by its members but a trained employee*
16 *is not on the premises. For purposes of this section, “live video*
17 *surveillance” means live monitoring of the health studio premises*
18 *via video technology by a person. The video surveillance system*
19 *must be sufficient to permit a person monitoring an incident to*
20 *make a reasonable determination whether emergency medical*
21 *services or law enforcement responders should be notified, and,*
22 *if necessary, to make that notification.*

23 *(f) Subdivisions (b), (c), and (d) do not apply in the case of*
24 *personal injury or wrongful death that results from gross negligence*
25 *or willful or wanton misconduct on the part of the person who*
26 *uses, attempts to use, or maliciously fails to use an automatic*
27 *external defibrillator to render emergency care or treatment.*

28 *(g) For purposes of this section, “health studio” means any*
29 *facility permitting the use of its facilities and equipment or access*
30 *to its facilities and equipment, to individuals or groups for physical*
31 *exercise, body building, reducing, figure development, fitness*
32 *training, or any other similar purpose, on a membership basis.*
33 *“Health studio” does not include any hotel or similar business that*
34 *offers fitness facilities to its registered guests for a fee or as part*
35 *of the hotel charges.*